IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISC. CIVIL APPLICATION NO.87 of 2004

Prakash S. Morey & Ors. .. Applicants

vs.

Ashok S. Salvi & Ors. .. Respondents.

Mr.Sandeep A. Bhagwant with S.J.Chitale for the Applicant.

Mr.Raja Suryawanshi with Mr.M.K.Kulkarni, for the Respondent.

CORAM : A.S.OKA, J.

DATED : 12th April, 2005.

P.C. :

1. Heard learned Counsel appearing for the parties. This application under Section 24 of the Code of Civil procedure, 1908 is filed praying for transfer of the five suits filed by the Respondent Nos.1, 2, 3 and 4 against the Applicants in the Court of Civil Judge, Sr. Division, Panaji to any Court of concurrent jurisdiction at Pune wherein another suit filed by the Respondent Nos.1 and 2 is pending.

2. The learned Counsel appearing for the Applicants stated that the documentary evidence in

the suits pending in the Court at Panaji and the documentary evidence in the suit pending in the Court at Pune may be to some extent same. He submitted that as the Applicants and the Respondent Nos.1 and 2 are residents of Pune and as the Respondent Nos.3 to 6 are having their registered office at Pune, suit filed in the Court of Civil Judge, Sr. Division, Panaji may be transferred to the Court at Pune. He submitted that suits are filed in the Court of Panaji only to take benefit of lesser Court fees payable in the State of Goa.

3. The learned Counsel appearing for the Respondent Nos.1 and 2 submitted that the applicants made an application for consolidation of the five suits pending in the Court at Panaji and at that stage no application was made for transfer of the suits. He pointed out that the cause of action for filing the suits are totally different and therefore, no case is made out for transfer.

4. I have considered the rival submissions. I have also perused the copies of the plaints in the suits in question. Considering the cause of action for filing the suit which is pending in the Court at Pune and prayers made therein, it is obvious that

the cause of action in the suits which are pending in the Court at Panaji is totally different from the cause of action in the Suit filed in Pune Court. Though some of the parties may be common, the Respondent No.6 is not a party to the suits which are pending in the Court at Panaji. The Respondent No.6 is a party to the suit pending in the Court at Pune and is having registered office and branch at Pune.

5. As cause of action for filing the suits are totally different, in my view, this is not a fit case for passing order of transfer. Hence, application is rejected. No order as to costs.

(A.S.Oka, J.)